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| <input type="checkbox"/> Affordable Housing (Sec. 415) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
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| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Other |

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Planning Commission Motion No. 19202

HEARING DATE: JULY 24, 2014

Date: July 17, 2014
Case No.: **2013.1626C**
Project Address: **1257 GUERRERO STREET**
Zoning: RH-3 (Residential House, Three-Family) District
40-X Height and Bulk District
Block/Lot: 6513/015
Project Sponsor: David Silverman
Reuben, Junius & Rose, LLP
One Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Erika S. Jackson – (415) 558-6363
erika.jackson@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 216(C), 209.2(D) AND 303 OF THE PLANNING CODE TO TO LEGALIZE AN EXISTING HOTEL USE (DBA NOE'S NEST BED AND BREAKFAST) FOR NO MORE THAN FIVE ROOMS OR SUITES OF ROOMS WITHIN AN EXISTING SINGLE-FAMILY DWELLING LOCATED AT 1257 GUERRERO STREET, ASSESSOR'S BLOCK 6513, LOT 015, WITHIN AN RH-3 (RESIDENTIAL HOUSE, THREE-FAMILY) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On November 7, 2013, David Silverman (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Section(s) 216(c), 209.2(d), and 303 to legalize an existing hotel use (dba Noe's Nest Bed and Breakfast) for no more than five rooms or suites of rooms within an existing single-family dwelling within an RH-3 (Residential House, Three-Family) Zoning District and a 40-X Height and Bulk District.

On July 24, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.1626C.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption;

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2007.0386C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located on the east side of Guerrero Street, between 24th and 25th Streets, Block 6513, Lot 015. The property is located within a RH-3 (Residential House, Three-Family) Zoning District and a 40-X Height and Bulk District. The property is developed with a three-story Victorian building constructed circa 1890 and contains an existing bed and breakfast use with five rooms (dba Noe's Nest Bed and Breakfast) and a single-family residence. The subject property is approximately 3,500 square feet with 28.5 feet of frontage on Guerrero Street, and a lot depth of 123 feet.
3. **Surrounding Properties and Neighborhood.** The project site is located in the Mission neighborhood, in an area characterized by a variety of multi-family residential buildings and neighborhood-serving uses. Across the street from the subject property is a private high school. The adjacent property to the south is a single family dwelling and the adjacent property to the north is a three-family dwelling.
4. **Project Description.** The applicant proposes to legalize an existing hotel use (dba Noe's Nest Bed and Breakfast) with five rooms or suites of rooms within an existing single-family dwelling. The project proposes no interior or exterior changes to the existing building. The bed and breakfast is owner occupied and has operated as a bed and breakfast since 2005.
5. **Public Comment.** The Department has received 93 letters in support of the proposal.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Use.** Planning Code Section 209.2(d) requires Conditional Use Authorization by the Planning Commission for a hotel use (bed and breakfast with fewer than five rooms) in an RH-3

(Residential House, Three-Family) which are offered for compensation and are primarily for the accommodation of transient overnight/short-term guests.

The small-scale hotel use is compatible with the neighborhood and has existed in its current form since 2005, and is highly valued by the neighbors for the service that it provides.

- B. **Parking.** Planning Section 151 of the Planning Code requires one off-street parking for each 16 guestrooms in a hotel where the number of rooms exceeds 23, plus one off-street parking space for the manager's unit, if any.

The bed and breakfast contains five rooms and one manager's unit. There is one existing off-street parking space. No additional off-street parking is required.

- C. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. Any proposed signage will be subject to the review and approval of the Planning Department.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The proposed hotel use is desirable because it provides a much needed service to the neighborhood for their out of town visitors and family. The subject property is well suited for this use because the previous use was a large single-family home that is owner occupied by one person. The use is compatible with the neighborhood and has existed in its current form since 2005, and is highly valued by the neighbors for the service that it provides.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The height and bulk of the existing building will remain the same and will not alter the existing appearance or character of the project vicinity. The property is developed with a three-story Victorian building constructed circa 1890 located on a block characterized by two and three-story multi-family residences.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The Planning Code does not require parking or loading for the proposed use. The proposed use is designed to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide. All guests are encouraged to use public transportation or park at the nearby Bartlett Parking Garage.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The proposed use is subject to the standard conditions regarding offensive emissions.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

The proposed project does not require any additional tenant improvements. The property is well landscaped with a front garden and a rear yard.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The proposed project is not located within a Neighborhood Commercial District.

- 8. **Planning Code Section 303(g)** establishes criteria for the Planning Commission to consider when reviewing applications for tourist hotels and motels. On balance, the project does comply with said criteria in that:

- A. The impact of the employees of the hotel or motel on the demand in the City for housing, public transit, childcare, and other social services. To the extent relevant, the Commission shall also consider the seasonal and part-time nature of employment in the hotel or motel;

The bed and breakfast employs one person, which is too few to create significant impacts on housing, public transit, childcare, and other social services.

- B. The measures that will be taken by the project sponsor to employ residents of San Francisco in order to minimize increased demand for regional transportation;

The bed and breakfast employs one person who lives a few blocks away and walks to work, thus creating no new impact on regional transportation.

- C. The market demand for a hotel or motel of the type proposed; and

There has been continuous neighborhood demand for the bed and breakfast since it opened 9 years ago in 2005.

- D. In the Transit Center C-3-O(SD) Commercial Special Use District, the opportunity for commercial growth in the Special Use District and whether the proposed hotel, considered with other hotels and non-commercial uses approved or proposed for major development sites in the Special Use District since its adoption would substantially reduce the capacity to accommodate dense, transit-oriented job growth in the District.

The subject project is located within an RH-3 Zoning District.

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The proposed development will provide a desirable service to the neighborhood. The legalization of the existing business will not result in undesirable consequences.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The Project will retain an existing commercial activity and will enhance the diverse economic base of the City.

OBJECTIVE 6:

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

No commercial tenant would be displaced and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

Policy 6.2:

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

An independent entrepreneur is sponsoring the proposal. The proposed use is a neighborhood serving use. This is not a Formula Retail use.

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The proposal would enhance the district by providing a small-scale hotel use that is a much needed service for the surrounding neighborhood.

B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The existing units in the surrounding neighborhood would not be adversely affected.

C. That the City's supply of affordable housing be preserved and enhanced,

No housing is removed for this Project. Further, there is no affordable housing on the Project Site.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The site is on Guerrero Street and is well served by transit. The only employee of the bed and breakfast walks to work, thereby mitigating possible effects on street parking.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The Project will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The existing structure is a historic resource constructed circa 1890. The existing Victorian building will be preserved as no alterations are proposed as part of this project.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces.

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

12. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2013.1626C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated March 23, 2005, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 19202. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on July 24, 2014.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Hillis, Sugaya, Fong, Antonini, Borden, Moore, and Wu

NAYES: None

ABSENT: None

ADOPTED: July 24, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a hotel use (dba Noe's Nest Bed and Breakfast) for no more than five rooms or suites of rooms within an existing single-family dwelling located at 1257 Guerrero Street, Block 6513, Lot 015 pursuant to Planning Code Section(s) 216(c), 209.2(d), and 303 within an RH-3 (Residential House, Three-Family) Zoning District and a 40-X Height and Bulk District; in general conformance with plans, dated March 23, 2005, and stamped "EXHIBIT B" included in the docket for Case No. 2013.1626C and subject to conditions of approval reviewed and approved by the Commission on July 24, 2014 under Motion No. **19202**. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on July 24, 2014 under Motion No. **19202**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **19202** shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN

6. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the architectural addenda. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org.

MONITORING

7. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
8. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

9. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.
For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>
10. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

11. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org